

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI**

CATHERINE FOWLER,)
)
Plaintiff,)
) Cause No. 4:17CV2547 DDN
v.)
)
MIDAS HOSPITALITY, LLC, et. al.)
)
Defendants.)

**DEFENDANTS MIDAS HOSPITALITY, LLC AND MIDAS ST. PETERS, LLC'S
MOTION FOR SUMMARY JUDGMENT**

COMES NOW Defendants Midas Hospitality, LLC and Midas St. Peters, LLC, by and through their counsel, Robert D. Rowland and the Law Offices of Rouse & Cary, and for their Motion for Summary Judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure, state as follows:

1. In her Second Amended Complaint, Plaintiff claims on December 16, 2016, she slipped and fell on ice when she was a guest at the Courtyard Marriott St. Peters located at 4341 Veterans Memorial Parkway, St. Peters, Missouri. *See Exhibit A, Second Amended Complaint ¶ 1.*
2. Plaintiff claims Midas Hospitality, LLC (hereinafter "Hospitality") and Midas St. Peters, LLC (hereinafter "St. Peters") owned, operated, managed or controlled the hotel. *See Exhibit A, Second Amended Complaint ¶ 9, 20.*
3. Plaintiff claims there was ice on the walkway located immediately outside the main entrance of the hotel, and as a result, the sidewalk and parking lot were not reasonably safe. *See Exhibit A, Second Amended Complaint ¶ 12, 23.*
4. Plaintiff claims Hospitality and St. Peters were under an affirmative obligation to act with reasonable care under the circumstances to protect its guests from injuries while on its premises. *See Exhibit A, Second Amended Complaint ¶ 14, 24.*

5. Plaintiff claims Hospitality and St. Peters were negligent in failing to remove the dangerous condition of the walkway; failing to properly maintain the walkway; failing to warn of the unsafe nature of the walkway; and failing to barricade the area of the walkway. *See Exhibit A, Second Amended Complaint ¶ 15, 25.*

6. In this case, Plaintiff must prove that Hospitality and St. Peters owed her a duty to use reasonable and ordinary care to prevent injury as a result of a dangerous condition existing on the premises. *Medlock v. St. John's Health Sys.*, 426 S.W.3d 35, 38 (Mo. Ct. App. 2014).

7. Hospitality and St. Peters are entitled to summary judgment because Plaintiff has failed to produce sufficient evidence to show the existence of one or more of the necessary elements of her claim, namely, that Hospitality and St. Peters owed a duty to Plaintiff given the fact that she fell on ice during and following an ice storm . The ice was a natural accumulation of ice which was common to and present in the entire St. Louis area.

8. To support this Motion, Hospitality and St. Peters present their Statement of Uncontroverted Material Facts and their Memorandum of Law in Support of their Motion for Summary Judgment, which are attached and made a part of this Motion.

WHEREFORE, for the reasons stated herein and in Defendants' Statement of Uncontroverted Material Facts and Defendants' Memorandum of Law in Support of its Motion for Summary Judgment, Defendants Midas Hospitality, LLC and Midas St. Peters, LLC pray that the Court sustain their Motion for Summary Judgment and enter judgment in favor of Defendants Midas Hospitality, LLC and Midas St. Peters, LLC against Plaintiff.

LAW OFFICES OF ROUSE AND CARY

BY: /s/ Robert D. Rowland
ROBERT D. ROWLAND 39079
Attorneys for Defendants Midas Hospitality,
LLC and Midas St. Peters, LLC
10733 Sunset Office Drive, Suite 410
St. Louis, Missouri 63127
Direct Dial: (314) 288-2640
Telefax: (603) 334-7449
Robert.Rowland@libertymutual.com

CERTIFICATE OF SERVICE

Signature above is also certification that a true and correct copy of the foregoing document has been mailed, first class, postage prepaid, this 13th day of February, 2019 to: Shaun M. Falvey, Goldblatt + Singer, P.C., 8182 Maryland Ave., Ste. 801, St. Louis, MO 63105 and Jeffrey J. Brinker, Brinker & Doyen, LLP, 34 N. Meramec Ave., 5th Floor, Clayton, MO 63105.